

IN RE: PETITION FOR ZONING VARIANCE
S/S Nancy Ellen Way, 502' E
Garrison Forest Road
3407 Nancy Ellen Way
4th Election District
3rd Councilmanic District
Rene F. and Yvonne Daniel
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-520-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1A01.3.B.6 to permit a side yard setback of 32.4 feet (attached garage) in lieu of the required 50 feet, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners, Rene F. Daniel and Yvonne Daniel, appeared, testified and were represented by Geoffrey L. Forman, Esquire. Appearing on behalf of the Petition was Robert Cook, Contractor. There were no Protestants.

Testimony indicated that the subject property, known as 3407 Nancy Ellen Way consists of 1.6 acres +/-, zoned R.C.5 and is currently improved with an existing single family dwelling and attached garage.

The Petitioners testified that in October of 1978, they petitioned for and received a zoning variance for an open carport which is located on the west side of the home. The Petitioners testified that they subsequently had the carport enclosed without knowledge that such action was going beyond the scope of the variance relief granted in October of 1978. The Petitioners are now desirous of enlarging the existing garage, as indicated on Petitioners' Exhibit No. 1.

ORDER RECEIVED FOR FILING
Date 7/23/90
By [Signature]

Mr. Robert Cook, Petitioners' Contractor, testified that the proposed addition will provide the Petitioners with a second story master bath above the existing garage and that the new garage will have a western entrance in lieu of the existing north entrance.

Testimony further indicated that the Petitioners' neighbors are not opposed to the requested relief.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict

ORDER RECEIVED FOR FILING
Date 7/23/90
By [Signature]

-2-

the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of July, 1990 that the Petition for a Zoning Variance to permit a side yard setback of 32.4 ft. in lieu of the required 50 feet, in accordance with Petitioners' Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners shall not allow or cause the subject garage to be converted to a second dwelling unit and/or apartment.
3. Upon request and reasonable notice, the Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 7/23/90
By [Signature]

JRH/mm
cc: Peoples Counsel

-3-

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(410) 887-3353
J. Robert Haines
Zoning Commissioner

July 18, 1990



Dennis F. Rasmussen
County Executive

Geoffrey L. Forman, Esquire
334 St. Paul Street
Baltimore, Maryland 21202

RE: Petition for Zoning Variance
Case No. 90-520-A
Rene F. Daniel and Yvonne Daniel

Dear Mr. Forman:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mm
att:
cc: Peoples Counsel
cc: Ms. Rene F. Daniel
Ms. Yvonne Daniel
3407 Nancy Ellen Way
Owings Mills, Md. 21117

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-520-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A01.3.B.6 (Side Yard Setback) to PERMIT A SIDE YARD SETBACK OF 32.4' IN LIEU OF THE REQUIRED 50' FOR AN ATTACHED GARAGE.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

To be discussed at hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/we do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) Signature Address City and State

Legal Owner(s): (Type or Print Name) Signature Address City and State

Attorney for Petitioners: (Type or Print Name) Signature Address City and State

334 ST. PAUL ST. BALTIMORE, MARYLAND 21202

Attorney's Telephone No.: 832-0711

ORDERED By The Zoning Commissioner of Baltimore County, this 9 day of July, 1990

that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 12th day of July, 1990, at 11:30 o'clock A.M.

ORDER RECEIVED FOR FILING

ESTIMATED LENGTH OF HEARING - 1/2 hr.
AVAILABLE FOR HEARING 10:00 AM - 12:00 PM
REVIEWED BY: CAM DATE 19 Aug 90

3407 Nancy Ellen Way
ZONING DESCRIPTION

Beginning at a point on the south side of Nancy Ellen Way which is 50' wide at the distance of 502' east of the centerline of the nearest improved intersecting street Garrison Forest Road which is 50' wide. Being Lot #4, Block C, Section #1 in the subdivision of Timberfield in the Valley as recorded in Baltimore County Plat Book #EHKJr #37, Folio #150, containing 1.160 acres. Also known as 3407 Nancy Ellen Way and located in the 4th Election District.

90-520-A

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townson, Maryland

District: 4th Date of Posting: June 12, 1990
Posted for: Variance
Petitioner: Rene F. and Yvonne Daniel
Location of property: 3407 Nancy Ellen Way, 502' E Garrison Forest Road, 3407 Nancy Ellen Way
Location of Sign: In front of 3407 Nancy Ellen Way
Remarks: S.D. Carter
Posted by: S.D. Carter Date of return: June 22, 1990
Number of Signs: 1

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance Case number: 90-520-A
S/S Nancy Ellen Way, 502' E Garrison Forest Road, 3407 Nancy Ellen Way, 4th Election District, 3rd Councilmanic District

Petitioner(s): Rene F. & Yvonne Daniel
Hearing Date: Thursday, July 12, 1990 at 11:30 a.m.
Variance: to permit a side yard setback of 32.4' in lieu of the required 50' for an attached garage in the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission will, however, entertain any request for a stay of the issuance of said permit during the period for good cause shown. Such request must be in writing and received in the office of the Commissioner of Baltimore County on or before the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
CMT/JRH/ST June 14, 1990

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 18, 1990
THIS IS TO CERTIFY, that the annexed advertisement was published in OWINGS MILLS TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 14, 1990.

OWINGS MILLS TIMES,

Publisher

PO 105507

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 18, 1990
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 14, 1990.

THE JEFFERSONIAN,

S. Zafe Orlov
Publisher

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance Case number: 90-520-A
S/S Nancy Ellen Way, 502' E Garrison Forest Road, 3407 Nancy Ellen Way, 4th Election District, 3rd Councilmanic District

Petitioner(s): Rene F. & Yvonne Daniel
Hearing Date: Thursday, July 12, 1990 at 11:30 a.m.
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J. ROBERT HAINES
Zoning Commissioner of Baltimore County
CMT/JRH/ST June 14, 1990

Baltimore County
Zoning Commissioner
County Office Building
211 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-6150
Number

NE 2216

Date: 7/20/90
PUBLIC HEARING FEES QTY PRICE
010 - ZONING VARIANCE (IRL) 1 X \$25.00
LAST NAME OF OWNER: DANIEL TOTAL: \$25.00

Cashier Validation: B B 71*****3500: a J201F
Please make checks payable to: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(301) 887-3333

receipt

Account: R 001-6150
Number: **90-520**
No: **2935**
M9100017

Date: 7/12/90

PUBLIC HEARING FEES	QTY	PRICE
QBO -POSTING SIGNS / ADVERTISING 1 X		\$101.45
TOTAL:		\$101.45

LAST NAME OF OWNER: DANIEL

04A04#0030MCHRC \$101.45
BA C09317PM07-12-90
Please make checks payable to: Baltimore County EXT BUSINESS DAY

Cashier Validation:

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

DATE: 7/4/90

Mr. & Mrs. Rene F. Daniel
3407 Nancy Ellen Way
Owings Mills, Maryland 21117

Re: Petition for Zoning Variance
CASE NUMBER: 90-520-A
5/5 Nancy Ellen Way, 502' E Garrison Forest Road
3407 Nancy Ellen Way
4th Election District - 3rd Councilmanic
Petitioner(s): Rene F. and Yvonne Daniel
HEARING: THURSDAY, JULY 12, 1990 at 3:30 p.m.

Dear Petitioners:

Please be advised that \$ 101.45 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$59.00 added to the above amount for each such set not returned.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs
cc: Geoffrey L. Forman, Esq.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

May 23, 1990

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance
CASE NUMBER: 90-520-A
5/5 Nancy Ellen Way, 502' E Garrison Forest Road
3407 Nancy Ellen Way
4th Election District - 3rd Councilmanic
Petitioner(s): Rene F. and Yvonne Daniel
HEARING: THURSDAY, JULY 12, 1990 at 11:30 a.m.

Variance to permit a side yard setback of 32.4' in lieu of the required 50' for an attached garage.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. Daniel
Geoffrey L. Forman, Esq.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

June 19, 1990

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 90-520-A
PETITIONER(S): Rene F. Daniel, et ux
LOCATION: 3407 Nancy Ellen Way

THE ABOVE MATTERS HAVE BEEN REASSIGNED. HEARING WILL NOW TAKE PLACE AS FOLLOWS:

THURSDAY, JULY 12, 1990 at 3:30 p.m.

IN THE BALTIMORE COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE, ROOM 106, TOWSON, MARYLAND 21204.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY

JRH:gs
cc: Mr. & Mrs. Daniel
Geoffrey L. Forman, Esq.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

June 22, 1990

Geoffrey L. Forman, Esquire
334 St. Paul Street
Baltimore, MD 21202

RE: Item No. 371, Case No. 90-520-A
Petitioner: Rene F. Daniel, et al
Petition for Zoning Variance

Dear Mr. Forman:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

June 22, 1990

Geoffrey L. Forman, Esquire
334 St. Paul Street
Baltimore, MD 21202

RE: Item No. 371, Case No. 90-520-A
Petitioner: Rene F. Daniel, et al
Petition for Zoning Variance

Dear Mr. Forman:

Your petition has been received and accepted for filing this 9th day of May, 1990.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:
James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Rene F. Daniel, et al
Petitioner's Attorney: Geoffrey L. Forman

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Rene F. Daniel, et ux, Item 371

DATE: April 26, 1990

The Petitioner requests a Variance to side yard setback requirements. In reference to this request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

MAY 11 1990

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 406
Towson, Maryland 21204
(301) 887-3554

May 24, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 332, 333, 354, 359, 362, 363, 364, 365, 366, 367, 369, 370, 371, and 372.

Very truly yours,
Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lvw

RECEIVED
MAY 25 1990
ZONING DIVISION

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500
Paul H. Reincke
Chief

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

RE: Property Owner: RENE F. DANIEL & YVONNE DANIEL

Location: S/S NANCY ELLEN WAY
3407 NANCY ELLEN WAY

Item No.: 371 Zoning Agenda: MAY 8, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Cap. Joseph Kelly* 5/8/90 Noted and Approved *Cap. Wm. F. Brady* 5/17/90
Planning Group Fire Prevention Bureau
Special Inspection Division

BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: May 11, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for May 8, 1990

The Developers Engineering Division has reviewed the subject revised zoning items and we have no comments for Items 332, 333, 354, 362, 363, 365, 368 and 370.

For Items 367, the previous County Review Group Comments still apply.

For Item 359, 2-foot setback for parking is inadequate for vehicle overhand against State Highway Administration fence.

For Item 364, the address on the plat is #9400 for Lot 53.

For Item 366, the correct plat reference is SM 56/138.

For Items 371 and 372, no plans were received for review and comment.

For 89-483A, we have no comment.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

April 13, 1990

90-520-A



Dennis F. Rasmussen
County Executive

Rene & Yvonne Daniel
3407 Nancy Ellen Way
Owings Mills, Md. 21117

RE: Building Permit Application
3407 Nancy Ellen Way
4th Election District

Dear Mr. & Mrs. Daniel:

Your contractor, Robert Cook, recently applied for a garage extension for your dwelling. Upon further review, this office has determined that the existing garage is not in compliance with Baltimore County Zoning Regulations or Zoning Case 79-78-A.

In your area, the required side yard setback for an attached garage is 50 feet, and for an attached carport 37.5 feet is required. In Zoning Case #79-78-A, relief was requested and granted for a carport setback of 32.46 feet in lieu of the required 37.5. By constructing a garage, an apparent zoning violation now exists on your property. This office cannot approve an extension of a violation.

There are two ways to rectify the situation: one being the removal of the three walls and garage door making the structure once again a carport; the second would be to request relief from the 50 feet side yard setback for a garage and its extension.

Enclosed, please find the paperwork that must be completed prior to filing the petition. Your contractor made an appointment for you to file the petition on May 9, 1990 at 2:45 p.m. If this date is to soon to have the enclosed paperwork completed, contact this office no later than April 23 to reschedule a filing appointment.

To: René & Yvonne Daniel

-2-

April, 13, 1990

90-520-A

Failure to comply with any of the above requests will result in a formal zoning violation.

If you have any questions regarding this matter, I may be contacted at 887-3391.

Very truly yours,

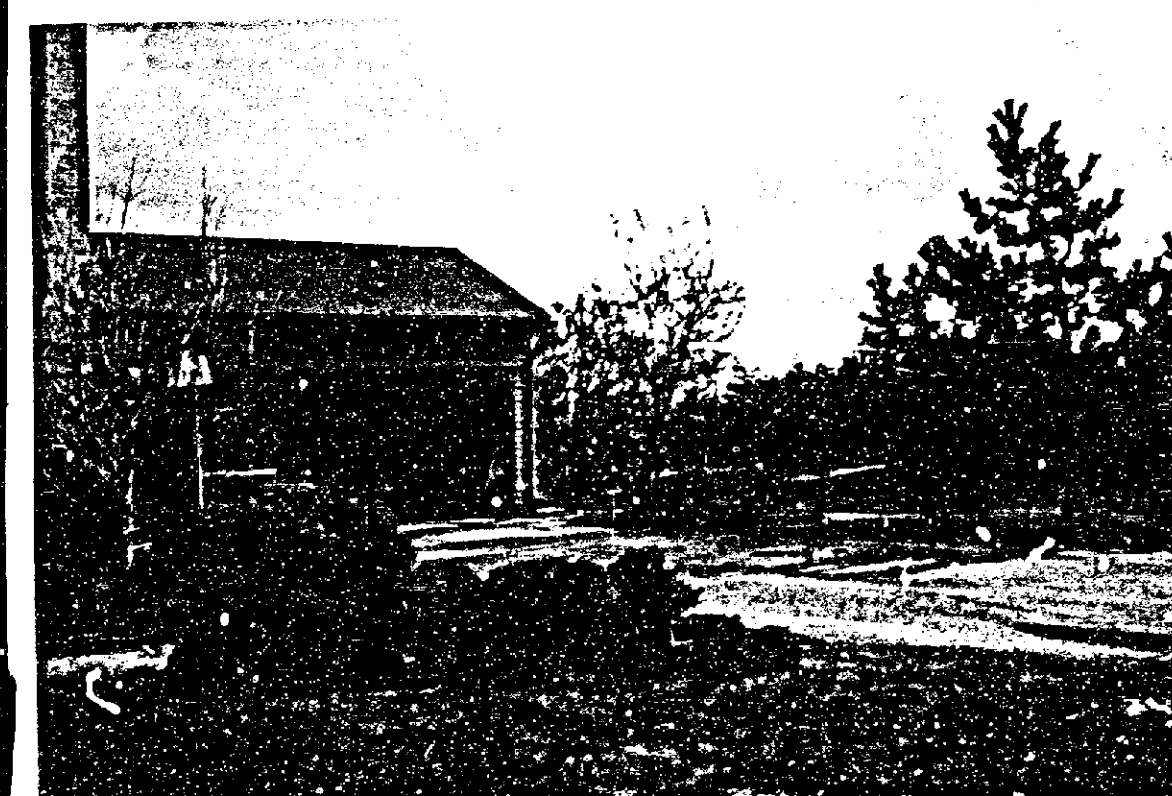
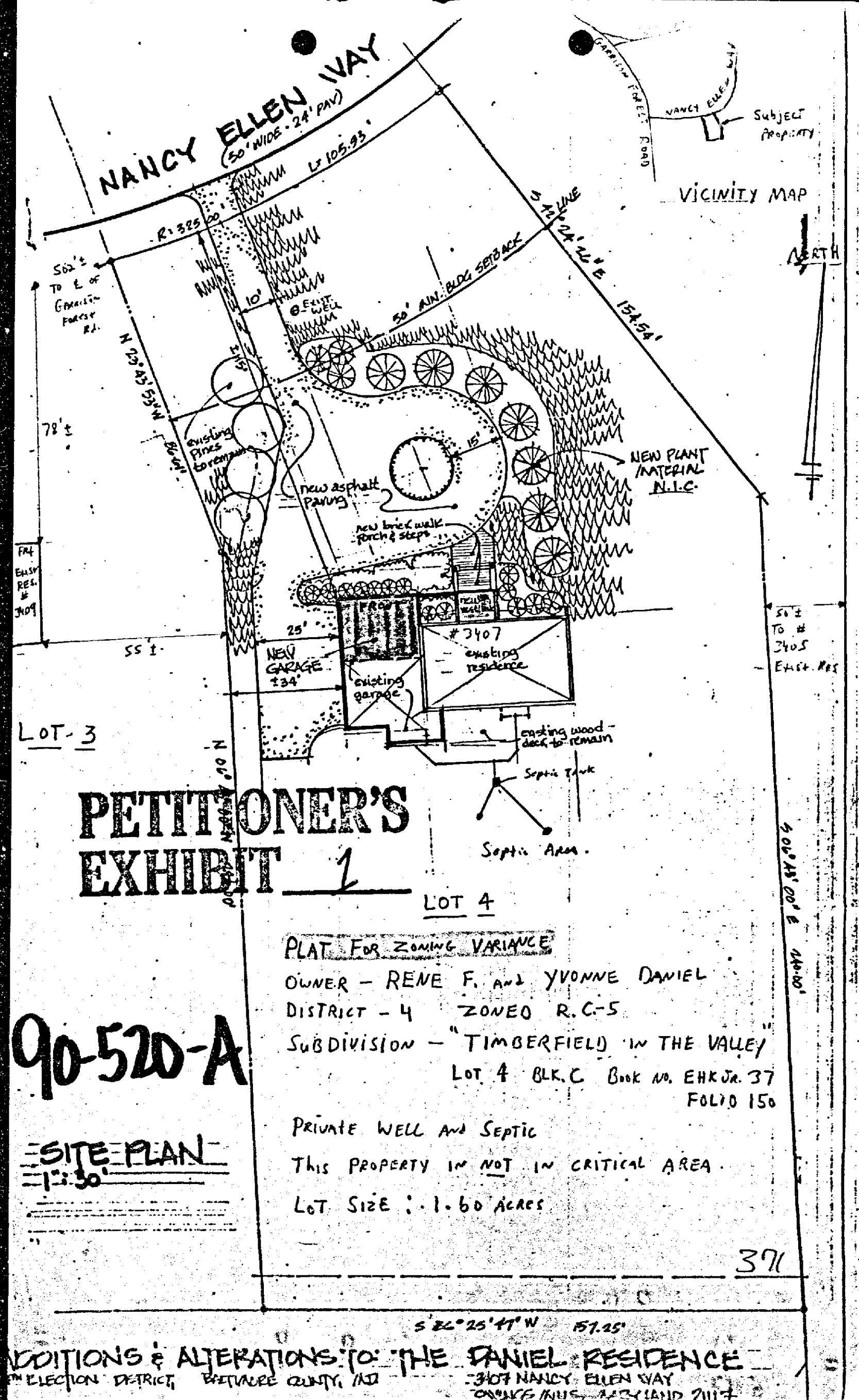
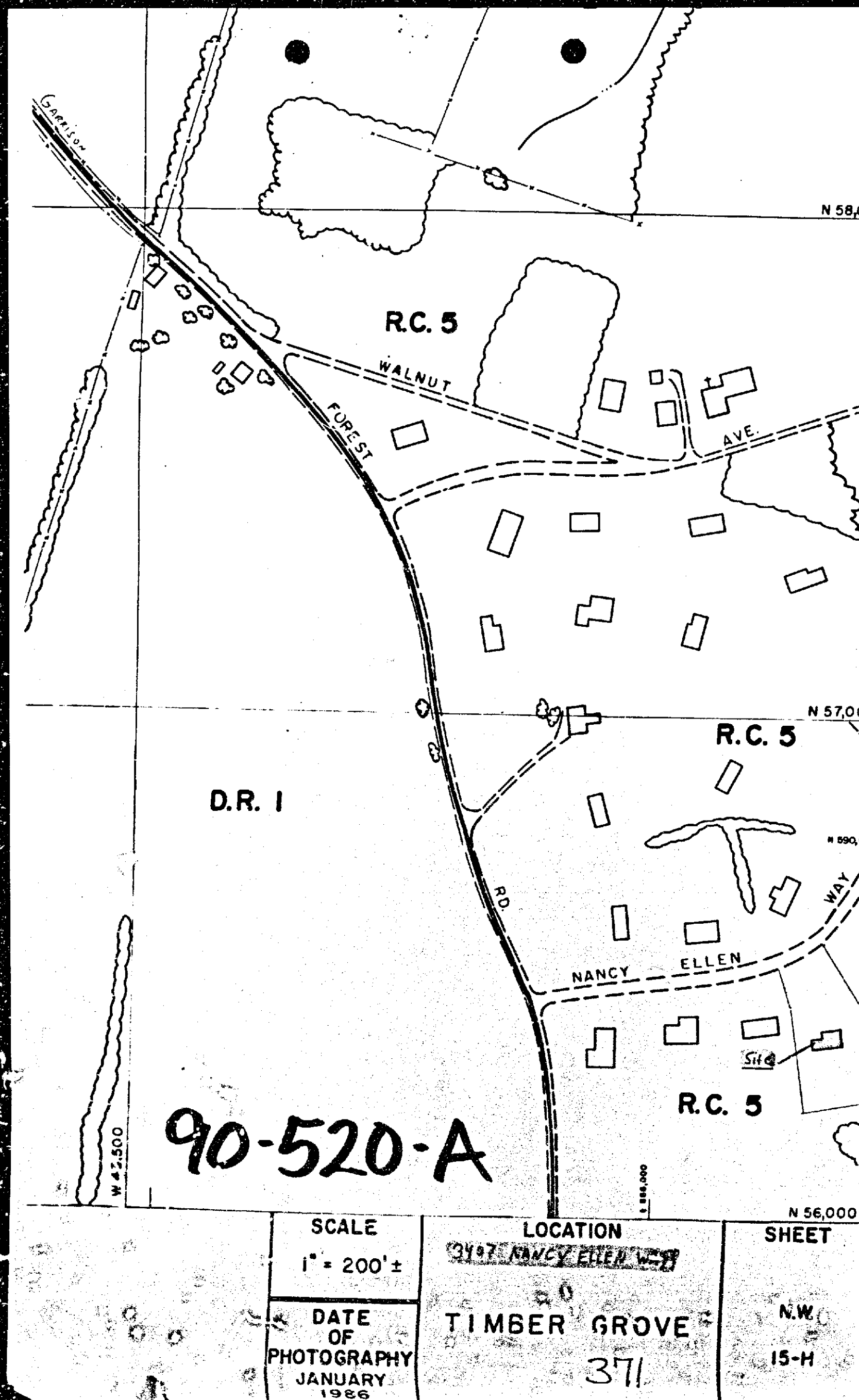
James E. Dyer
JAMES E. DYER
Zoning Supervisor

Catherine A. Milton
By: Catherine A. Milton
Planner II

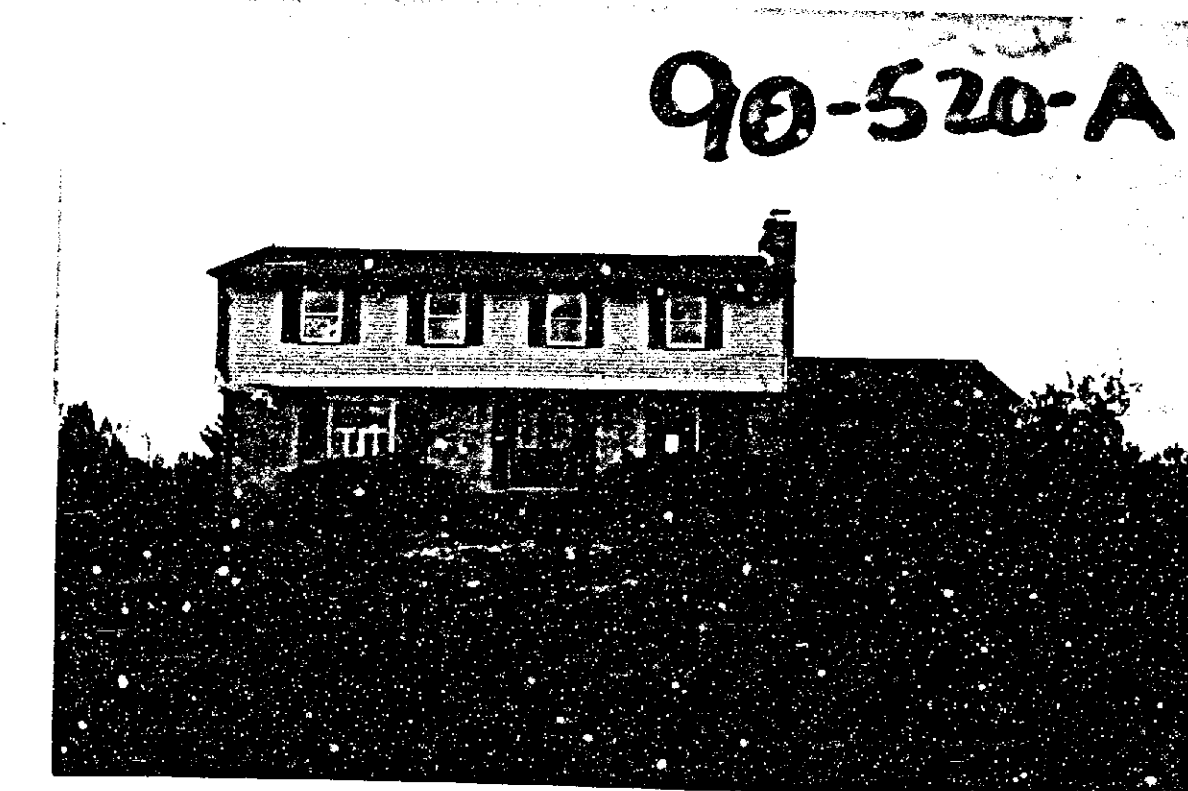
CAM/jat

cc: James Thompson
Zoning Enforcement Coordinator
Robert Cook
Encl. FILE 12

Mimeo of 79-98-A
file w/ 90-520-A



PETITIONER'S
EXHIBIT 2



PETITIONER'S
EXHIBIT 3

90-520-A